

SENATE CHAMBER,
AUSTIN, TEXAS, Thursday, May 11, 1871.

Senate met pursuant to adjournment; President Campbell presiding.

Roll called; quorum present.

Absent—excused—Senator Evans.

On motion of Senator Hertzberg, Senator Hillebrand was excused on account of sickness.

Prayer by the Chaplain.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

SPECIAL ORDER,

Senate bill No. 374, "An act to amend the Penal Code for the State of Texas."

On motion of Senator Ruby, special order was postponed in order to allow the Committee on Engrossed Bills to submit their reports.

Reports of Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, May 10, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills, having examined and compared Senate bills No 294, "An act supplementary to an act entitled 'an act to incorporate the Rio Grande Railroad Company,' approved August 13, 1870;" No. 365, "An act supplemental to and amendatory of 'an act regulating public printing,' approved August 13, 1870," and No. 414, "An act supplemental to an act to give effect to the several provisions of the Constitution concerning taxes," find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL.

Report read and received.

The Secretary carried to the House for concurrence Senate bill No. 294.

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills, having examined and

compared Senate bills No. 360, "An act amendatory of and supplementary to an act entitled 'an act to incorporate the Pacific and Great Eastern Railway Company of Texas,' approved August 13, 1870," and Senate substitute for House bill No. 186, "An act to amend the first, third and fifth sections of an act entitled 'an act to regulate the disposal of the public lands of the State of Texas,' approved August 12, 1870," find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL.

Report read and received and the Secretary carried to the House Senate substitute House bill No. 186.

COMMITTEE ROOM,
AUSTIN, May 10, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared Senate bills No. 260, "An act to prohibit the sale of ardent spirits and other intoxicating liquors within certain limits of Lebanon high school, in Collin county, Texas;" No. 307, "An act to repeal section twenty-nine of 'an act to organize the courts of justices of the peace and county courts, and to define their jurisdiction and duties,' approved August 13, 1870;" No. 385, "An act for the relief of Louis Constant;" No. 392, "An act for the relief of J. Wadsworth," and No. 416, "An act to amend the fifth section of an act passed the first day of October, A. D. 1866, entitled 'an act to incorporate the Rio Grande Railroad Company,'" find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL.

Report read and received, and the Secretary carried to the House for concurrence Senate bills Nos. 260, 307, 385, 392.

POSTPONED SPECIAL ORDER,

Senate bill No. 374, read second time, ordered engrossed and passed to a third reading.

On motion of Senator Fountain, the rules were suspended and Senate bill No. 374 read third time and passed.

REPORTS OF STANDING COMMITTEES.

Reports of Committee on State Affairs:

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 310, entitled "An act to authorize the Governor to procure from the archives of the old Spanish missions the history of this State prior to 1793, and to make appropriation for the same," after careful consideration, instruct me to report the same back, and recommend that it be laid on the table.

Respectfully,

S. W. FORD,
Chairman,

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 367, entitled "An act to authorize the transcript of the surveyor's records of Lampasas county," after careful consideration, instruct me to report the same back, and recommend its passage.

Respectfully,

S. W. FORD,
Chairman,

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 449, entitled "An act authorizing the county courts of this State to offer a reward for the destruction of wolves," after careful consideration, instruct me to report the same back and recommend its passage.

Respectfully,

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred

House bill No. 603, entitled "An act to amend section twenty-nine of an act entitled 'an act to incorporate the city of Dallas, in Dallas county,'" after careful consideration, instruct me to report the same back and recommend its passage.

Respectfully,

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred House bill No. 531, entitled "An act for the relief of George Cox," after careful consideration instruct me to report the same back and recommend its passage.

Respectfully,

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 10, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred House bill No. 587, entitled "An act to incorporate the San Antonio City Street Railroad Company," after careful consideration instruct me to report the same back and recommend its passage.

Respectfully,

S. W. FORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 10, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on State Affairs, to whom was referred House bill No. 605, entitled "An act to incorporate the town of Yorktown," after careful consideration, instruct me to report the same back and recommend its passage, with the accompanying amendment.

Respectfully,

S. W. FORD,
Chairman.

Amendment to House bill No. 605: Amend section three, line seven, insert after the word "aldermen," the following words: "and

shall be required to take the oath prescribed by the Constitution of the State of Texas."

Reports read and laid over under the rules.

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 604, entitled "An act to incorporate the Young Men's Real Estate and Building Association of the city of Tyler," after careful consideration, instruct me to report the same back and recommend the passage of the accompanying bill as a substitute therefor.

Respectfully,

S. W. FORD,
Chairman.

Report and substitute (Senate substitute House bill No. 604) "An act to incorporate the Young Men's Real Estate and Building Association of Tyler, Texas," read first time and laid over under the rules.

Report of Committee on Contingent Expenses:

COMMITTEE ROOM,
AUSTIN, May 10, 1871.

Hon. DON CAMPBELL.

President of the Senate:

SIR: Your Committee of Contingent Expenses, to whom was referred an account of W. B. Johnson, Sergeant-at-Arms of the Senate, for serving subpoenas on various witnesses, and mileage for same in the case of the State of Texas vs. Wm. H. Russell, ask leave to report that the account contemplates constructive mileage, which, in the opinion of your committee, should not be allowed; but that as the account belongs to a class that has never before been referred to them, your committee ask leave to report the same back for the consideration of the Senate, and that they be discharged from further consideration thereof.

J. S. MILLS,
Chairman.

Report read and laid over under the rules.

Report of Committee on Internal Improvements:

COMMITTEE ROOM,
AUSTIN, May 9, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 594, "An act to incorporate the Buffalo

Bayou and Trinity Railway Company," have had the same under consideration and recommend that it do pass.

WEBSTER FLANAGAN,
Chairman.

W. H. PARSONS,
J. P. DOUGLASS,
THOS. H. BAKER,
W. A. SAYLOR.

Report read, and, on motion of Senator Parsons, the rules were suspended to consider the report and bill.

Bill read second time.

Message from the House by the Chief Clerk, Mr. Ketchum, announcing that the Governor had returned to the House where it originated, "An act to incorporate the Casino Society of Yorktown," with his objections thereto, and that in compliance with the provisions of the Constitution, that body had proceeded to reconsider the same, and, upon reconsideration, had passed the bill, two-thirds of the House voting in the affirmative.

VETO MESSAGE.

GOVERNOR'S OFFICE,
AUSTIN, April 17, 1871.

Hon. IRA H. EVANS,

Speaker of the House of Representatives :

SIR: I return to your House "An act to incorporate the Casino Society of Yorktown."

This act incorporates a society "for the purpose of encouraging and advancing the fine arts and literary sciences, and social intercourse," and in section two, *provided further*, that this association shall "not be liable to pay any occupation tax, either State, county or municipal."

Now, if it is intended to exempt the association from occupation tax on the ground that it is for literary purposes, then this provision is not necessary, because it is already exempted under the general law relating to that subject. But if the very vague purpose of the encouragement of "social intercourse" is intended to be exempted, the association may, under that pretext, retail liquors or engage in almost any other taxable occupation, and still be exempt from the usual tax. This could not have been the intention of the Legislature, but it is certainly the legal effect of the act.

Very respectfully,

EDMUND J. DAVIS,
Governor.

On motion of Senator Pridgen, the message of the Governor and the bill were referred to a select committee of three.

The President appointed on said committee Senators Pridgen, Mills and Shannon.

The question recurring upon House bill No. 594, Senator Parsons moved that the bill pass to a third reading.

Senator Ruby moved that the further consideration of the bill be postponed and made special order for Monday next at 10:30 A. M.

Yeas and nays called for and motion to postpone lost by the following vote:

Yeas—Bell, Broughton, Dohoney, Ford, Gaines, Hall, Ruby—7.

Nays—Mr. President, Baker, Bowers, Cole, Douglass, Flanagan, Fountain, Hertzberg, Latimer, Mills, Parsons, Pettit, Pickett, Pridgen, Pyle, Rawson, Saylor, Shannon, Tendick—19.

Bill passed to a third reading.

Senator Saylor moved that the rules be further suspended and the bill pass.

Yeas and nays called for and motion to suspend the rules lost by the following vote, four-fifths not voting in the affirmative:

Yeas—Mr. President, Baker, Bowers, Cole, Douglass, Flanagan, Ford, Fountain, Hall, Hertzberg, Latimer, Mills, Parsons, Pettit, Pickett, Pyle, Rawson, Saylor, Shannon, Tendick—20.

Nays—Bell, Broughton, Dohoney, Gaines, Pridgen, Ruby—6.

Message from the Governor by his private Secretary as follows:

EXECUTIVE DEPARTMENT,

AUSTIN, May 11, 1871.

To the Honorable Senate of the State of Texas:

GENTLEMEN: I respectfully ask your advice and consent to the following appointment, to wit: Franklin Cummings for judge of the district court for the thirty-second district.

Respectfully,

EDMUND J. DAVIS,

Governor.

Message read and referred to Committee on Nominations.

Under directions of the President, the Secretary carried to the House for concurrence the following Senate bill:

Senate bill No. 296, "An act to incorporate the Law Department of the Texas University."

Senate bill No. 408, "An act to require the Judge of the Eighteenth Judicial District to hold a special term of the district court of Brazoria county."

Also, informing the House the Senate had passed the following House bills:

House bill No. 152, "An act to incorporate the Howard Institute of Waco, Texas," passed May 9, 1871.

House bill No. 188, "An act to incorporate the officers and members of Humboldt Lodge No. 94, I. O. O. F. of Victoria," passed May 9, 1871.

House bill No. 349, "An act defining the powers and jurisdiction of the Criminal District Court of Galveston and Harris counties," passed May 9, 1871.

House bill No. 396, "An act to incorporate the Austin Trust Company," passed May 9, 1871.

Also, for signature of the Speaker the following enrolled Senate bills :

Senate bill No. 29, "An act to incorporate the Texas Cotton Spinning and Manufacturing Company."

Senate bill No. 58, an act to be entitled "An act to incorporate the Alta Viesta Female Seminary, in Austin county, Texas."

Substitute Senate bill No. 89, "An act incorporating the West Texas Road Steamer Transportation Company."

Senate bill No. 167, "An act to incorporate the Houston Cemetery Company."

Senate bill No. 220, "An act to incorporate the Calvert and Belton Railroad Company."

Senate bill No. 236, "An act to incorporate the Waco City Cemetery Association."

Senate bill No. 390, "An act to exempt from taxation certain property therein specified."

Senate bill No. 312, "An act to authorize the Galveston, Harrisburg and San Antonio Railway Company to unite or consolidate railroad with connecting roads."

Senate joint resolution No. 9, "Authorizing the Secretary of State to issue to the Galveston Mercantile Library sets of Public Documents of the State of Texas."

Senate joint resolution No. 26, "For the relief of Dillard Cooper."

Enrolled bills signed by the Speaker, returned to the Senate and signed by the President in open session.

Reports of Committee on Private Land Claims :

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR: Your Committee on Private Land Claims, to whom was referred House bill No. 364, entitled "An act for the relief of John Hawkins Brown," after careful consideration, instruct me to report the same back and recommend that it do pass.

G. T. RUBY,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Private Land Claims, to whom was referred House bill No. 365, entitled "An act for the relief of Aaron Burns, assignee of John O'Donnel," after careful consideration, instruct me to report the same back and recommend that it do pass.

Respectfully,

G. T. RUBY,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Private Land Claims, to whom was referred House bill No. 363, entitled "An act for the relief of the heirs of John Staker, deceased," after careful consideration, instruct me to report the same back and recommend that it do pass.

G. T. RUBY,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Private Land Claims, to whom was referred House bill No. 491, entitled "An act for the relief of Drury Field, assignee of James Y. Mason," after careful consideration, instruct me to report the same back and recommend that it do pass.

Respectfully,

G. T. RUBY,
Chairman.

Reports read and laid over under the rules.

BILLS AND RESOLUTIONS.

By Senator Fountain : a bill (Senate bill No. 418) to be entitled "An act authorizing heads of departments of the State Government to administer oaths." Read first time, rules suspended, read second time, ordered engrossed and passed to a third reading.

On motion of Senator Fountain, the rules were further suspended, and Senate bill No. 418 read third time and passed.

On motion of Senator Saylor, the rules were suspended to take from file Senate bill No. 254, "An act to incorporate the Texas Dental College."

On motion of Senator Pettit, the following House amendments were concurred in: Amend by inserting the names of W. T. C. Campbell, James H. Johnson and George B. Slaughter, also the name of I. P. Nixon as incorporators.

On motion of Senator Ford, the rules were suspended to take from file House bill No. 12, "An act to incorporate the town of Kosse, in Limestone county."

On motion of Senator Ford, the Senate receded from the following amendment, in which the House refused to concur: Amend section one, line two, by inserting after the word "Kosse" the word "Mugginsville."

On motion of Senator Ford, the rules were suspended to take from file House bill No. 89, "An act to incorporate the Galveston Seamen's Home."

The Senate receded from the following Senate amendment, in which the House refused to concur: Amend section four, lines thirteen and fourteen, by striking out all after the word "by-laws."

On motion of Senator Ford, the rules were suspended to take from file House bill No. 55, "An act to amend an act entitled 'an act to adopt and establish a penal code for the State of Texas,' approved August 26, A. D. 1856," and to repeal an act entitled "An act to amend articles 412 and 418 of 'an act to adopt and establish a penal code for the State of Texas,' approved December 16, A. D. 1863."

On motion of Senator Ford, the Senate receded from its amendments in which the House refuse to concur.

A Select Committee from the House of Representatives consisting of Messrs. Slaughter, Morris and Cotton, was announced, informing the Senate that the House had elected as Speaker of that body, Hon. Wm. H. Sinclair, in place of Hon. Ira H. Evans.

Senator Mills moved that the rules be suspended to take from file House bill No. 599, "An act to authorize the Governor to prepare and issue bonds to an amount sufficient to meet any deficiency in receipts of revenue for the years 1871 and 1872, and also providing for the payment of said bonds and interest thereon."

Yeas and nays called for and motion to suspend the rules lost by the following vote:

Yeas—Mr. President, Baker, Bell, Ford, Fountain, Gaines, Hall, Hertzberg, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby, Saylor, Tendick—16.

Nays—Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Latimer, Pyle, Shannon—9.

Senator Bowers moved to suspend the rules to take from file Senate bill No. 281, "An act to provide for the erection of two new States within the jurisdiction of the State of Texas," and substitute Senate bill No. 281, "An act to provide for the erection of a new State within the jurisdiction of the State of Texas."

Yeas and nays called for, and motion to suspend the rules lost by the following vote :

Yeas—Baker, Bell, Bowers, Hertzberg, Mills, Pettit, Pickett, Pridgen, Pyle, Rawson—10.

Nays—Mr. President, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Parsons, Ruby, Saylor, Shannon, Tendick—16.

Message from the Governor by his private Secretary, Mr. Britton, as follows :

GOVERNOR'S OFFICE,
AUSTIN, May 10, 1871.

To the Honorable Senate and House of Representatives of the State of Texas:

GENTLEMEN: I have the honor to inform you that the following named bills have been received by me and approved, to-wit:

Senate bill No. 238, "An act to amend an act entitled 'an act fixing the terms of the Supreme Court of the State of Texas, and authorizing and requiring the court to establish rules,' approved August 13, 1870," approved May 8, 1871.

Senate bill No. 24, "An act amendatory of an act entitled 'an act to organize the courts of justices of the peace and county courts and to define their jurisdiction and duties,' approved August 13, 1870," approved May 8, 1871.

Senate bill No. 285, "An act to validate certain acts of the County Court of Van Zandt county," approved May 8, 1871.

Senate bill No. 54, "An act to repeal the third section and to amend the second section of 'an act to regulate the sale of lands under decrees of courts,' approved August 13, 1870," approved May 8, 1871.

Senate bill No. 81, "An act to prohibit the sale or distribution of spirituous or other intoxicating liquors, or the establishment of any drinking saloon, gambling house, house of ill-fame, etc., within certain limits," approved May 8, 1871.

Senate bill No. 209, "An act to authorize the county court of Milam county to levy and collect a special tax for the purpose of erecting a new court house in said county," approved May 8, 1871.

Senate bill No. 138, "An act to incorporate the Bank of Sabine Pass," approved May 8, 1871.

Senate bill No. 217, "An act to incorporate the town of Ysleta, in El Paso county," approved May 9, 1871.

Senate bill No. 301, "An act to reincorporate the city of Navasota, Grimes county, and to grant a new charter to said city and to repeal an act approved October 27, 1866, incorporating the city of Navasota," approved May 9, 1871.

House bill No. 618, "An act to incorporate the Seguin Manufacturing Company," approved May 9, 1871.

House bill No. 278, "An act authorizing administrators, executors, guardians and trustees to secure their bonds by pledge of real estate," approved May 9, 1871.

House bill No. 600, "An act to incorporate the Draymen's Savings Club of Houston, Texas," approved May 9, 1871.

House bill No. 145, "An act to prohibit the sale or otherwise disposing of spirituous or vinous liquors within three miles of Baylor University, in Washington county," approved May 9, 1871.

House bill No. 412, "An act to incorporate Cedar Male and Female Institute," approved May 9, 1871.

Very respectfully,

EDMUND J. DAVIS,

Governor.

Message read.

Message from the House by the Chief Clerk transmitting to the Senate for concurrence House bill No. 668, "An act providing for the payment of persons summoned as witnesses before the Senate, sitting as a high court of impeachment in the case of William H. Russell, Judge of the Fifteenth Judicial District, and making an appropriation for the same."

By unanimous consent the Senate proceeded to the consideration of House bill No. 647, "An act to amend 'an act prescribing the mode of proceeding in district courts in matters of probate,' approved August 15, 1870."

On motion of Senator Dohoney, the following amendment reported by the Committee on Judiciary was adopted: Amend by striking out sections twelve and thirteen.

[Senator Pickett called to the chair.]

Senator Tendick offered the following amendment: Section two, after the word "appointment," in line eighteen, insert "*provided*," that in case of the appointment of a clerk of the district court as administrator of an estate, his bond shall be approved by the district judge of that court. Adopted.

Senator Baker offered the following amendment: Amend section two, page three, of printed bill by striking out all after the word "appointment," in line eighteen. Adopted.

Senator Baker offered the following amendment: Amend by strik-

ing out all after the word "estate," in line ten, section four. Adopted.

Bill passed to a third reading.

On motion of Senator Baker, the rules were further suspended and House bill No. 647 read third time and passed.

On motion of Senator Pridgen, the rules were suspended to take from file House bill No. 668, "An act providing for the payment of persons summoned as witnesses before the Senate sitting as a high court of impeachment in the case of William H. Russell, Judge of the Fifteenth Judicial District, and making an appropriation for the same.

Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Fountain, the rules were further suspended and House bill No. 668 read third time, passed by the following vote and returned to the House.

Yeas—Baker, Bell, Bowers, Broughton, Cole, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Latimer, Mills, Parsons, Pettit, Pickett, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick—24.

Nays—None.

On motion of Senator Fountain, the rules were suspended to take from file House bill No. 4, "An act to encourage stock raising and for the protection of stock raisers."

On motion of Senator Fountain, the following amendments reported by the Select Committee were adopted:

Amend section nine by adding, "*and further provided*, that any stock owner, having marks and brands recorded in the office of the district clerk, may file with the inspector of hides and animals a list of his recorded marks and brands, certified to by the clerk of the district court, and under his seal, to which certified list shall be attached the names of any person or persons whom said stock owner may wish to authorize to gather, drive or otherwise handle his stock; and the filing of said list with the inspector of hides and animals shall be deemed sufficient authority to allow any person named in said list to gather, drive or otherwise handle any animals of the marks and brands therein described."

Substitute for section twenty-five the following: "Section 25. All the provisions of this act shall apply to and be enforced in all the counties lying entirely west of the Colorado river and south of the Red Fork of said river; and in the counties of Colorado, Fayette and Bastrop; *provided*, that this act shall not be so construed as to authorize or require the inspection of hides in any other county than that in which the animals from which the hides are taken were slaughtered."

Substitute for section twenty-six the following: "Section 26. That so much of this act as relates to the inspection of live stock shall be enforced in the counties of Wichita, Willbarger, Hardeman, Knox, Baylor, Haskell, Throckmorton, Collin, Dallas, Tarrant, Parker, Palo Pinto, Buchanan, Shackelford, Jones, Taylor, Callahan, Runnels, Eastland, Erath, Hood, Johnson, Bosque, Coleman, Milam, Falls, Limestone and Navarro, and so much of this act as relates to the inspection and sale of hides shall not apply to any of the counties mentioned in this section."

Senator Hall offered the following amendment: Amend by adding after the word "Navarro" the words "Leon and Robertson." Adopted.

Senator Parsons offered the following amendment: Amend by inserting after the word "Robertson," "also, the counties of Galveston and Harris, where jurisdiction of inspectors shall be confined to the stock of the counties last named, and the hides of animals slaughtered in the same." Adopted.

Senator Fountain offered the following amendment: Amend by adding to section twenty-seven "*and provided*, that none of the provisions of this act shall apply to or be enforced in any county in this State except those specified in this and the preceding sections of this act." Adopted.

Senator Dohoney offered the following amendment: Amend by striking out the counties of Tarrant and Dallas. Lost.

Bill passed to a third reading as amended, and, on motion of Senator Fountain, the rules were further suspended and House bill No. 4 read third time and passed.

Senator Mills moved that the Senate stand adjourned to 10 o'clock A. M. to-morrow. Yeas and nays called for and motion lost by the following vote:

Yeas—Mr. President, Mills, Pickett, Rawson—4.

Nays—Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Parsons, Pettit, Pridgen, Ruby, Saylor, Shannon, Tendick—20.

[President Campbell resumed the chair.]

By leave, Senator Ruby submitted the following report of the Committee on Private Land Claims:

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 355, an act to be entitled "An act for the relief of Charles Korn," have had the same under careful consider-

ation, and instruct me to report the bill back with the recommendation that it do pass.

Respectfully, etc.,

G. T. RUBY,
Chairman.

Report read and laid over under the rules.

Also, report of Joint Select Committee on General Incorporation Act:

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Select Committee, to whom, conjointly with a like committee from the House of Representatives, was referred the drafting of a bill concerning private corporations, having carefully considered the same, respectfully report the accompanying bill: House bill No. 649, entitled "An act concerning private corporations," and recommend that it do pass.

G. T. RUBY,
A. J. FOUNTAIN,
E. B. PICKETT.

On motion of Senator Saylor, the Senate, at 12:35 P. M., adjourned to 4 P. M.

AFTERNOON SESSION.

4 o'CLOCK P. M.

Senate met pursuant to adjournment; President Campbell, presiding.

Roll called; quorum present.

Absent--excused---Senators Evans and Hillebrand.

Senator Flanagan moved to suspend the rules to take from file House bill No. 505, "An act to encourage the speedy construction of a railway through the State of Texas to the Pacific Ocean.

Yeas and nays called for, and motion to suspend the rules carried by the following vote:

Yeas--Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Saylor, Shannon, Tendick--21.

Nays--Bowers, Hertzberg, Pettit, Pickett, Ruby--5.

Senator Bowers moved to adjourn to 9 o'clock A. M., to-morrow. Yeas and nays called for and motion lost by the following vote:

Yeas--Bowers, Hertzberg, Pettit, Pickett, Ruby--5.

Nays---Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Saylor, Shannon, Tendick--21.

House bill No. 505 read second time.

Senator Douglass offered the following amendment: Amend section one, by striking out all after the word "Texas," in line forty-five, down to and including the word "practicable" in line fifty, and insert in lieu thereof the following words: "The said, the Southern Pacific Railroad Company, shall build its road from the present western terminus thereof, at Longview, in Upshur county, by the most practicable route, to the city of Tyler, in Smith county, so that the said road shall pass within one-half mile of the court house, in said city, and from the said city of Tyler, the said road shall be built westwardly, so as not to depart more than five miles from a due west course, until it shall cross the Brazos river, and the said road shall be built from said Brazos river by the most practicable route to the point of junction."

Senator Flanagan moved the adoption of the amendment.

Yeas and nays called for and amendment adopted by the following vote:

Yeas--Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick--24.

Nays--Hertzberg, Pickett--2.

Senator Flanagan offered the following amendment: Amend by inserting the following as section eleven of the bill: "All the rights, benefits and privileges granted and intended to be secured by this act to the Southern Pacific Railroad Company, and to the Southern Trans-Continental Railway Company, shall pass to and vest in the Texas Pacific Railroad Company, a corporation created by and under the laws of the United States by an act of Congress, approved March third, one thousand eight hundred and seventy-one, whenever the said Southern Pacific Railroad Company and the said Southern Trans-Continental Railway Company shall have been consolidated with the said Texas Pacific Railroad Company, and authority is hereby given to the said Southern Pacific Railroad Company, the said Southern Trans-Continental Railway Company and the said Texas Pacific Railroad Company, to consolidate on such lawful terms and conditions as may be agreed upon between the said companies, and be ratified by a majority of the stockholders of each of

the corporations so consolidating; *provided, however*, that the said Texas Pacific Railroad Company, shall take no benefit whatever, under or by virtue of this act, until the said company shall have fully performed all the conditions imposed by this act upon the Southern Pacific Railroad Company and the Southern Trans-Continental Railway Company." Amend by making section eleven section twelve. Adopted.

Senator Bowers offered the following amendment: Amend by adding after the word "Washington," in line thirty-eight, section one, page four, of the printed copy of the bill, the words "and west of the west line of Shackelford county." Lost.

Senator Ruby moved to reconsider the vote just taken upon the adoption of the amendment. Carried.

The question recurring upon the adoption of the amendment, yeas and nays called for, and amendment lost by the following vote:

Yeas—Bowers, Dohoney, Ford, Gaines, Hall, Hertzberg, Pickett, Tendick—8.

Nays—Mr. President, Baker, Bell, Broughton, Cole, Douglass, Flanagan, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Shannon—15.

Senator Dohoney offered the following amendment, and moved its adoption: Amend section two, in line fifty-nine, by inserting after the word "company" the words "*provided*, that no part of the line of said road east of Fannin county shall be located and established more than one mile from the old survey of the Memphis, El Paso and Pacific Railroad Company."

Yeas and nays called for, and amendment lost by the following vote:

Yeas—Mr. President, Baker, Broughton, Dohoney, Hall, Hertzberg, Latimer, Pickett, Shannon, Tendick—10.

Nays—Bell, Bowers, Cole, Douglass, Flanagan, Ford, Fountain, Gaines, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor—16.

Senator Pickett offered the following amendment, and moved its adoption: Amend section one by striking out all after the word "to," in line sixteen, down to and including the word "the," in line eighteen, and insert the following: "invest as stock, and does hereby invest as stock in the Southern Pacific Railroad Company, and in the"

Yeas and nays called for and amendment lost by the following vote:

Yeas—Bowers, Hertzberg, Pettit, Pickett, Tendick—5.

Nays—Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon—21.

Senator Pickett offered the following amendment and moved its adoption: Amend section one by striking out all after the word "to-wit," in line twenty-five, down to and including the word "granted," in line thirty, and insert in lieu thereof the following: "In the Southern Pacific Railway Company the bonds of the State to the amount of three millions of dollars, and in the Southern Trans-Continental Railway Company."

Yeas and nays called for and amendment lost by the following vote:

Yeas---Hertzberg, Pickett--2.

Nays---Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick--24.

Senator Pickett offered the following amendment and moved its adoption: Amend section two by striking out lines four and five.

Yeas and nays called for and amendment lost by the following vote:

Yeas---Hertzberg, Pickett--2.

Nays---Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick--24.

Message from the House by Chief Clerk, Mr. Ketchum, transmitting for signature the following enrolled House bills, House bill No. 611, "An act to authorize the Governor to receive from the Treasury of the United States the money due the State of Texas from the United States."

House bill No. 350, "An act to incorporate the Protection Fire Company No. 8, of the city of Galveston, State of Texas."

House bill No. 602, "An act authorizing the appointment of sheriffs and clerks *pro tem.* in certain cases."

Enrolled bills signed by the President of the Senate and returned to the House.

Under direction of the President, the Secretary of the Senate returned to the House, House bill No. 12, "An act to incorporate the town of Kosse, in Limestone county," and informing the House that the Senate recedes from its first amendment thereto, to which the House disagreed.

Also, returning the following House bills, and informing the House that the Senate recedes from the amendments to each, respectively, to which the House disagreed.

House bill No. 89, "An act to incorporate the Galveston Seamen's Home."

House bill No. 55, "An act to amend an act entitled 'an act to adopt and establish a Penal Code for the State of Texas,' approved August 26, A. D. 1856, and to repeal an act entitled 'an act to amend articles 412 and 418 of an act to adopt and establish a Penal Code for the State of Texas,' approved December 16, A. D. 1863."

Senator Pickett offered the following amendment, and moved its adoption: Amend section two by adding after the word "accounts," in line thirty-two, the following: "And said bonds shall constitute the State of Texas a stockholder in the said Southern Pacific Railroad Company, and the holder and owner of three millions of dollars par value stock in said Southern Pacific Railroad Company, and a stockholder in the said Southern Trans-Continental Railway Company, and the holder and owner of three millions of dollars of par value of stock in said Southern Trans-Continental Railway Company, with all the rights, privileges, benefits and immunities of other stockholders in said companies."

Yeas and nays called for, and amendment lost by the following vote:

Yeas—Bowers, Hertzberg, Mills, Pickett, Ruby, Tendick—6.

Nays—Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Parsons, Pettit, Pridgen, Pyle, Rawson, Saylor, Shannon—20.

Senator Pickett offered the following amendment and moved its adoption: Amend section twelve, by striking out all of the section after the figures "12," and inserting as a substitute the following: "That this act shall be referred to the people of the State for their ratification or rejection at the ballot box, at an election hereafter to be provided for in this State, and that this said act shall have no force or effect whatever until the same shall have been ratified by the people of this State.

[Senator Fountain called to the Chair.]

President Campbell moved that the Senate stand adjourned to 10 o'clock A. M. to-morrow.

Yeas and nays called for, and motion lost by the following vote:

Yeas—Mr. President, Bowers, Hertzberg, Pettit, Pickett, Ruby, Tendick—7.

Nays—Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Shannon—18.

The question recurring on the adoption of the amendment offered by Senator Pickett, the yeas and nays were called for, and motion to adopt lost by the following vote:

Yeas—Bowers, Hertzberg, Pettit, Pickett, Tendick—5.

Nays—Mr. President, Baker, Bell, Broughton, Cole, Dohoney,

Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Shannon—20.

The question being upon the passage of the bill to a third reading, Senator Bell moved the previous question. Previous question seconded.

The question being, "Shall the main question be ordered?" yeas and nays called for and main question ordered, by the following vote:

Yeas—Baker, Bell, Broughton, Cole, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Mills, Parsons, Pridgen, Pyle, Rawson, Shannon, Tendick—17.

Nays—Mr. President, Bowers, Dohoney, Hertzberg, Latimer, Pettit, Pickett, Ruby—8.

The main question was then put, "Shall the bill pass to a third reading?"

Yeas and nays called for and bill passed to a third reading by the following vote:

Yeas—Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Shannon, Tendick—21.

Nays—Bowers, Hertzberg, Pettit, Pickett—4.

Senator Pridgen submitted the following report of Committee on Enrolled Bills:

COMMITTEE ROOM,
AUSTIN, May 11, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Enrolled Bills have carefully examined and find correctly enrolled the following Senate bills, to-wit: No. 220, entitled "An act to incorporate the Calvert and Belton Railroad Company;" No. 29, entitled "An act to incorporate the Texas Cotton Spinning and Manufacturing Company;" No. 167, entitled "An act to incorporate the Houston Cemetery Company;" No. 390, entitled "An act to exempt from taxation certain property therein specified;" No. 89, entitled "An act incorporating the West Texas Road Steamer Transportation Company;" No. 58, entitled "An act to incorporate Alta Viesta Female Seminary, in Austin county, Texas;" No. 266, entitled "An act to incorporate the Waco City Cemetery Association;" No. 312, "An act to authorize the Galveston, Harrisburg and San Antonio Railway Company to unite or consolidate its railroad with connecting roads;" Senate joint resolution No. 9, "Authorizing the Secretary of State to issue to the Galveston Mercantile Library sets of public documents of the State of Texas;" joint resolution No. 26, "For

the relief of Dillard Cooper," and to-day at 12:30 presented them to the Governor for his approval.

B. J. PRIDGEN,
Chairman.

Report read and received.

On motion of Senator Dehoney, the Senate at 6:45 P. M. adjourned to 10 A. M. to-morrow.
